

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**ABEL MARTINEZ,**

*Plaintiff,*

**v.**

**Case No. SA-24-CV-01381-JKP**

**SOUTH SAN INDEPENDENT  
SCHOOL DISTRICT, TEXAS, STEVE  
GOMEZ, OFFICER OF THE SOUTH  
SAN ISD POLICE DEPARTMENT,  
SUED IN HIS INDIVIDUAL CAPACI-  
TY; MANUEL LOPEZ, PRESIDENT  
OF SCHOOL BOARD, SUED IN HIS  
INDIVIDUAL CAPACITY; AND JUAN  
CONTRERAS, SERGEANT OF THE  
SOUTH SAN ISD POLICE DEPART-  
MENT, SUED IN HIS INDIVIDUAL  
CAPACITY;**

*Defendants.*

**MEMORANDUM OPINION AND ORDER**

Before the Court is Defendants' Motions to Dismiss for Failure to State a Claim. *ECF Nos. 13-16*. Plaintiff Abel Martinez did not respond to any Motion. Upon consideration, the Motions to Dismiss are GRANTED. Martinez's causes of action that may be asserted based upon the facts supporting this action are DISMISSED WITH PREJUDICE. The Clerk of Court is directed to close this case.

**Factual Background**

Martinez filed this suit on December 3, 2024, alleging Defendants violated his First, Fourth, and Fourteenth Amendment rights, and his rights under 42 U.S.C. §1983. All Defendants

followed this Court's Standing Order procedure and notified Martinez's counsel in writing of their intent to file Motions to Dismiss pursuant to Federal Rule 12(b)(6) and providing their perceived bases for such dismissal. Pursuant to this Court's Standing Order, Martinez filed an Amended Complaint to cure any deficiencies. *ECF Nos. 8,9,12*. Defendants then filed independent Motions to Dismiss for Failure to State a Claim contending the Amended Complaint did not cure the bases for dismissal for failure to state a claim. *ECF Nos. 13-16*. Martinez's responses to the Motions to Dismiss were due January 17, 2025. However, Martinez, who is represented by counsel, did not respond.

### **Discussion**

When a party fails to respond to a motion, "the court may grant the motion as unopposed." W.D. Tex. Civ. R. 7(d)(2). The Court may apply this terminal Local Rule to dispositive motions to dismiss. *Suarez v. Ocwen Loan Servicing, LLC*, No. 5:15-CV-664, 2015 WL 7076674, at \*2 (W.D. Tex. Nov. 12, 2015); *Hernandez v. Deutsche Bank Tr. Co.*, No. EP-12-CV-282, 2012 WL 12887898, at \*2 (W.D. Tex. Aug. 21, 2012).

This Court declines to review the substantive merits of Martinez's asserted causes of action because he is represented by counsel, Defendants' counsel apprised Martinez's counsel of perceived bases for dismissal of this suit, and Martinez amended his Complaint yet failed to respond to the subsequent Motions to Dismiss. This procedural posture indicates Martinez declines to participate or continue to litigate this matter.


Based upon Martinez's failure to respond, the Court GRANTS Defendants' Motions to Dismiss as unopposed. *See* W.D. Tex. Civ. R. 7(d)(2). Martinez's causes of action that may be asserted related to the facts supporting this action are DISMISSED WITH PREJUDICE.

The Court withdraws the referral of all pretrial matters to Magistrate Judge Farrer.

The Court directs the Clerk of Court to close this case.

It is so ORDERED.

SIGNED this 29th day of January, 2025.



A handwritten signature in blue ink, reading "Jason Pulliam", is written over a horizontal line. Below the line, the name and title are printed in black capital letters.

JASON PULLIAM  
UNITED STATES DISTRICT JUDGE